

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13291, of H.E. Goings, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Section 3104) to use the subject premises for storage of roofing materials and vehicles, assembly of gutters in area less than 2,500 square feet, first floor vehicles, 2nd floor material in an R-4 District at the premises 711 G Street, N.E., (Square 891, Lot 814).

HEARING DATE: July 23, 1980
DECISION DATE: September 3, 1980

FINDINGS OF FACT:

1. The subject property is located on the south side of G Street between 7th and 8th Streets and is known as 711 G Street, N.E. It is in an R-4 District.

2. At the public hearing, the Board granted the applicant permission to amend the application. The applicant no longer intends to use the subject premises for the assembly of gutters.

3. The subject property is rectangular in shape and is 1044.20 square feet in area. The last Certificate of Occupancy, B-112553, was issued January 23, 1979 for an auto repair shop, 1st floor. The site is improved with a two story brick building that occupies most of the lot. There is no rear yard. The site abuts an 18.16 foot wide public alley. There is a one car parking space between the building and the sidewalk. The subject improvement is now vacant.

4. The subject property is under contract of sale, contingent upon the requested variance being granted. The contract purchaser is in the roofing business. He will use the premises to store roofing materials and cement. There are four trucks used in connection with the business, two one-ton trucks and two half-ton trucks. All four will be stored in the building. The truck drivers will use their own transportation to the subject building, move out the trucks and park their cars inside the building. The hours of operation are from 7:30 a.m. to 4:30 p.m.

5. There was much opposition to the application at the public hearing by eight neighboring property owners. There was a petition signed by some thirty-two residents who opposed the application. Among the societies and groups in opposition were the Stanton-Park Neighborhood Association, the Capital Hill Restoration Society, the principal of an elementary school directly south of the subject property and the ANC. The grounds of the opposition were that the subject property is in the middle of a neighborhood that wishes to preserve its residential character; that a commercial venture such as the proposed is inconsistent with the current zoning; that much renovation of homes in the immediate area is taking place; that the subject site is suitable for residential purposes; that the proposed use would create traffic, noise and pollution and would not be a neighborhood business; that commercial space is available at other properly zoned locations and lastly that the subject contract purchaser is presently doing business at the subject site without a Certificate of Occupancy. The Board agrees with the objections of the persons in opposition.

6. Advisory Neighborhood Commission - 6A opposed the application for the reasons stated above. The Board concurs.

7. The applicant argued that the subject property had a history of commercial uses to which no objections were raised as detrimental to the neighborhood. The Board finds that from the record, it cannot determine if any of the commercial uses, prior to the auto repair shop use for which a Certificate of Occupancy had been issued, were in fact legal uses. There was also testimony from the opposition that it never had a chance to challenge the uses to which the subject property had been put. The Board further finds that the relief sought is through a variance from the use provisions not a change of a non-conforming use. A repair garage is first permitted in a C-2 District. A storage establishment is first permitted in a C-M District. Under Sub-section 7104.2 of the Zoning Regulations a non-conforming use may be changed to a use which is permitted in the most restrictive district in which the existing non-conforming use is permitted. The Board finds that if an application for the alternative relief had been filed, the applicant would not prevail.

CONCLUSIONS OF LAW

Based on the record, the Board concludes that the applicant is seeking a variance from the use provisions, the granting of which requires a showing of a hardship upon the owner of the property that is inherent in the property itself. The Board concludes that there is no hardship in the property itself and that the site could be used for residential purposes for which it is zoned. The Board notes the strenuous opposition to the application on behalf of the residents property owners. The Board has alerted the contract purchaser to cease doing business at the subject premises.

The Board further concludes that the relief requested cannot be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. Accordingly, it is ORDERED that the application is DENIED.

VOTE: 4-0 (Walter B. Lewis, Connie Fortune and Charles R. Norris to DENY; William F. McIntosh to DENY by PROXY; Leonard L. McCants not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 31 OCT 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS.